# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/821,328 | 03/29/2001 | Naoki Kayahara | | 2285 |

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| EXAMINER |
|---|
| FLEURANTIN, JEAN B |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2172 | |

DATE MAILED: 05/21/2004

*12*

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/821,328 | KAYAHARA, NAOKI |
| | Examiner | Art Unit | |
| | Jean B Fleurantin | 2172 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>26 February 2004 RCE</u>.

2a)☐ This action is **FINAL**.     2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>40-78</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>40-78</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

## DETAILED ACTION

1.      A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection.  Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114.  Applicant's submission filed on February 26, 2004 has been entered, in which

claims 40-78 are added.  And, claims 40-78 are presented for examination.

### *Information Disclosure Statement*

2.      The information disclosure statement (IDS) filed 3/29/01 complies with the provisions of

MPEP § 609.  It has been placed in the application file.  The information referred to therein has

not been considered as to the merits (see attached form).

### *Remarks*

3.      Applicant's argument on pages 26 and 27, with respect to claims 40-78 have been fully

considered but, have been found persuasive only to the extent that the prior of record does not

specifically teach or suggest the limitations "a distance between coordinates of said plurality of

expression words is less than or equal to a predetermined distance, average coordinates of the

coordinates of said plurality of expression words are taken as coordinates of the position of a

single expression word corresponding to said retrieval object, and if the distance is greater than

the predetermined distance, respective coordinates of said plurality of expression words are taken

as the position of the at least one expression word" However, Related Art discloses such

limitations.

### MPEP 2111 Claim Interpretation; Broadest Reasonable Interpretation

During patent examination, the pending claims must be "given the broadest reasonable

interpretation consistent with the specification" Applicant always has the opportunity to amend

the claims during prosecussion and broad interpretation by the examiner reduces the possibility

that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162

USPQ 541,550-51 (CCPA 1969). The court found that applicant was advocating ... the

impermissible importation of subject matter from the specification into the claim. See also In re

Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held

that the PTO is not required, in the course of prosecution, to interpret claims in applications in

the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO

applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their

ordinary usage as they would be understood by one of ordinary skill in the art, taking into

account whatever enlightenment by way of definition or otherwise that may be afforded by the

written description contained in application's specification.").

The broadest reasonable interpretation of the claims must also be consistent with the

interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49

USPQ2d 1464, 1468 (Fed. Cir. 1999).

## *Claim Rejections - 35 USC § 103*

4.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 40-70 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Number 5,546,572 issued to Seto et al. (hereinafter "Seto") in view of Related Art

(hereinafter "Related Art").

As per claims 40 and 43, Seto discloses a method for generating a retrieval object map

(see col. 1, lines 8-9), said method comprising:

"pre-storing an expression word map" as each image stored in a conventional image

filing apparatus is assigned (see col. 1, lines 41-46), and see col. 31, lines 53-54, "in which a

plurality of expression word expressing impressions of retrieval objects are arranged on a virtual

space depending upon a degree of association of the impressions" as a corresponding point on a

retrieving image, the reference point and corresponding point may be automatically detected

through a pattern recognition process, in which this pattern recognition process may be executed

by using a sequential similarity detection algorithm, (see col. 23, lines 52-59);

"pre-storing a plurality of retrieval objects corresponding to said expression words" as

each image stored in a conventional image filing apparatus is assigned, such as image sensing

parameters including the date of sensing, it is therefore easy to retrieve an image by using image

sensing parameters, (see col. 1, lines 41-46), and see column 31, lines 53-54;

"deriving a position of at least one expression word corresponding to each said retrieval

object" as a means for retrieving an image inclusive of a particular position or area is settled by

adding indices of sensing parameters to each image and using position information as indices,

sensing parameters and position information are used as a retrieving key, (see col. 4, lines 23-

30), "wherein when a plurality of expression words correspond to a retrieval object" as a large

object is first retrieved by using position information, (see col. 7, lines 29-30),

the position is defined in the following manner:

"generating a retrieval object map arranging said respective retrieval objects on said

virtual space on the basis of the position derived" as an image inclusive of a particular object can

be retrieved directly from position information, the latitudes and longitudes of four corners of a

sensed 'corrected' image registered in advance are used for retrieving the image, (see col. 1, lines

50-54), and column 21, lines 22-26. Seto does not explicitly disclose a distance between

coordinates of said plurality of expression words is less than or equal to a predetermined

distance, average coordinates of the coordinates of said plurality of expression words are taken

as coordinates of the position of a single expression word corresponding to said retrieval object,

and if the distance is greater than the predetermined distance, respective coordinates of said

plurality of expression words are taken as the position of the at least one expression word.

However, Related Art discloses a plurality of expression word expressing sensuous image given

from the graphic image and each factor as factor point with respect to each of a plurality of

graphic image, (see page 2, line 25 to page 3, line 17). It would have been obvious to a person of

ordinary skill in the art at the time of the invention was made to modify the combined teachings

of Seto and Related Art with a distance between coordinates of said plurality of expression

words is less than or equal to a predetermined distance, average coordinates of the coordinates of

said plurality of expression words are taken as coordinates of the position of a single expression

word corresponding to said retrieval object, and if the distance is greater than the predetermined

distance. Such modification would allow the teachings of Seto and Related Art to improve the

efficiency and reliability of the retrieving method, retrieving system, retrieving program,

retrieval objective map generating method, retrieval objective map generating system, image

retrieving method, image retrieving system, image retrieving program, image retrieval data,

image map generating method and image map generating system.


As per claims 41, 44 and 54, in addition to claim 40, Seto further discloses "extracting

said expression word from said retrieval object descriptive document and said supplementary

document" as a means for allowing the retrieval of small objects, in which specifically a large

object is first retrieved by using position information, (see col. 7, lines 28-30), and

"deriving a position of the expression word extracted from said retrieval object

descriptive document and said supplementary document utilizing said expression word map" as

an image inclusive of a particular object can be retrieved directly from position information, the

latitudes and longitudes of four corners of a sensed 'corrected' image registered in advance are

used for retrieving the image, while checking whether a retrieving position is within an area

defined by the latitudes and longitudes of the four corners, (see col. 1, lines 50-56).

As per claims 42 and 45, Seto discloses, "wherein each said retrieval objects is stored corresponding to with an attribute information indicative of said retrieval object in addition to said retrieval object descriptive object and said supplementary document", (see col. 16, lines 32-37).

As per claims 46, 51 and 56, in addition to claim 40, Seto further discloses "deriving a position of said retrieving word on said virtual space with reference to said expression word map" as an issue of retrieving an image inclusive of a particular position or area is settled by adding indices of sensing parameters to each image and using position information as indices, sensing parameters and position information are used as a retrieving key, (see col. 4, lines 23-30); and

"retrieving the retrieval object including the impression having a closest similarity with the impression of said retrieving word on the basis of the position of said retrieving word in said retrieval object map" as a corresponding point on a retrieving image, the reference point and corresponding point may be automatically detected through a pattern recognition process, in which this pattern recognition process may be executed by using a sequential similarity detection algorithm, (see col. 23, lines 52-59).

As per claims 47 and 52,

the limitations of claims 47 and 52 are rejected in the analysis of claim 40, and these claims are rejected on that basis.

As per claims 48 and 53, Seto discloses, "wherein said retrieving the retrieval object at a position having a first angle with a smallest difference in angle measurement from a second angle corresponding to the retrieved word, wherein first angle and the second angle are defined by a straight line connecting the position the retrieving word or the expression word with the origin of said virtual space", (col. 1, line 63 to col. 2, line 29).

As per claim 49,

the limitations of claim 49 are rejected in the analysis of claim 40, and this claim is rejected on that basis.

As per claims 50 and 55, in addition to claim 46, Seto further discloses "said method includes retrieving retrieval object corresponding to attribute information matching with a given attribute information among said plurality of retrieval objects on the basis of the given attribute information" as user visually compares an image of an area containing an object belonging to a group with a reference image, (see col. 5, lines 37-39).

As per claims 57 and 60, Seto discloses a method for generating graphic image map (see col. 1, lines 8-9), comprising:

"pre-storing an expression word map" as each image stored in a conventional image filing apparatus is assigned (see col. 1, lines 41-46), and see column 31, lines 53-54, "in which a plurality of expression word expressing impressions of the graphic images are arranged on a virtual space depending upon a degree of association of the impressions" as a corresponding

point on a retrieving image, the reference point and corresponding point may be automatically

detected through a pattern recognition process, in which this pattern recognition process may be

executed by using a sequential similarity detection algorithm, (see col. 23, lines 52-59);

"pre-storing a plurality of graphic images corresponding to said expression words" as

each image stored in a conventional image filing apparatus is assigned, such as image sensing

parameters including the date of sensing, it is therefore easy to retrieve an image by using image

sensing parameters, (see col. 1, lines 41-46), and see column 31, lines 53-54;

"deriving a position of at least one expression word corresponding to each said graphic

image on said virtual space" as a means for retrieving an image inclusive of a particular position

or area is settled by adding indices of sensing parameters to each image and using position

information as indices, sensing parameters and position information are used as a retrieving key,

(see col. 4, lines 23-30), "wherein when a plurality of expression words correspond to a graphic

image" as a large object is first retrieved by using position information, (see col. 7, lines 29-30),

the position is defined in the following manner:

"generating a graphic image map arranging said graphic images on said virtual space on

the basis of the position derived" as an image inclusive of a particular object can be retrieved

directly from position information, the latitudes and longitudes of four corners of a sensed

'corrected' image registered in advance are used for retrieving the image, (see col. 1, lines 50-

54), and column 21, lines 22-26. Seto does not explicitly disclose a distance between

coordinates of said plurality of expression words is less than or equal to a predetermined

distance, average coordinates of the coordinates of said plurality of expression words are taken

as coordinates of the position of a single expression word corresponding to said graphic image,

and if the distance is greater than the predetermined distance, respective coordinates of said

plurality of expression words are taken as the position of the at least one expression word.

However, Related Art discloses a plurality of expression word expressing sensuous image given

from the graphic image and each factor as factor point with respect to each of a plurality of

graphic image, (see page 2, line 25 to page 3, line 17). It would have been obvious to a person of

ordinary skill in the art at the time of the invention was made to modify the combined teachings

of Seto and Related Art with a distance between coordinates of said plurality of expression

words is less than or equal to a predetermined distance, average coordinates of the coordinates of

said plurality of expression words are taken as coordinates of the position of a single expression

word corresponding to said graphic image. Such modification would allow the teachings of Seto

and Related Art to improve the efficiency and reliability of the retrieving method, retrieving

system, retrieving program, retrieval objective map generating method, retrieval objective map

generating system, image retrieving method, image retrieving system, image retrieving program,

image retrieval data, image map generating method and image map generating system.


As per claims 58 and 61, in addition to claim 57, Seto further discloses "extracting said

expression word from said graphic image descriptive document and said supplementary

document" as a means of allowing the retrieval of small objects, in which specifically a large

object is first retrieved by using position information, (see col. 7, lines 28-30), and

"deriving the position of the expression word extracted from said graphic image

descriptive document and said supplementary document utilizing said expression word map" as

an image inclusive of a particular object can be retrieved directly from position information, the

latitudes and longitudes of four corners of a sensed 'corrected' image registered in advance are used for retrieving the image, while checking whether a retrieving position is within an area defined by the latitudes and longitudes of the four corners, (see col. 1, lines 50-56).

As per claims 59 and 62, Seto discloses, "wherein each said graphic image includes attribute information indicative of said graphic image in addition to said graphic image descriptive object and said supplementary document", (see col. 16, lines 32-37).

As per claims 63, 67 and 74, in addition to claim 40, Seto further discloses "deriving a position of said retrieving word on said virtual space with reference to said expression word map" as an issue of retrieving an image inclusive of a particular position or area is settled by adding indices of sensing parameters to each image and using position information as indices, sensing parameters and position information are used as a retrieving key, (see col. 4, lines 23-30); and

"retrieving the retrieval object including the impression having a closest similarity with the impression of said retrieving word on the basis of the position of said retrieving word in said graphic image map" as a corresponding point on a retrieving image, the reference point and corresponding point may be automatically detected through a pattern recognition process, in which this pattern recognition process may be executed by using a sequential similarity detection algorithm, (see col. 23, lines 52-59).

As per claim 64,

the limitations of claim 64 are rejected in the analysis of claim 63, and this claim is rejected on that basis.


As per claim 65, Seto discloses, "wherein said retrieving the graphic image at a position having a first angle with a smallest difference in angle measurement from a second angle corresponding to the retrieved word, wherein first angle and the second angle are defined by a straight line connecting the position the retrieving word or the expression word with the origin of said virtual space", (col. 1, line 63 to col. 2, line 29).


As per claim 66, in addition to claim 63, Seto further discloses "said method includes retrieving graphic images including the attribute information matching with a given attribute information, and retrieving the graphic image including the impression meeting with the impression of said retrieving word among the graphic images matching with the given attribute information" as user visually compares an image of an area containing an object belonging to a group with a reference image, (see col. 5, lines 37-39).


As per claim 68,

the limitations of claim 68 are rejected in the analysis of claim 57, and this claim is rejected on that basis.

As per claim 69, Seto discloses, "wherein said retrieving the graphic image includes retrieving the graphic image at a position having a first angle with a smallest difference in angle measurement from a second angle corresponding to the retrieved word, wherein first angle and the second angle are defined by a straight line connecting the position the retrieving word or the expression word with the origin of said virtual space", (col. 1, line 63 to col. 2, line 29).

As per claim 70, in addition to claim 67, Seto further discloses "a second graphic retrieving means to retrieve graphic images having the attribute information matching with a given attribute information" as means for retrieving an image inclusive of a particular position or area is settled by adding indices of sensing parameters to each image and using position information as indices, sensing parameters and position information are used as a retrieving key, (see col. 4, lines 23-30).

5.      Claims 71-73 and 75-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,546,572 issued to Seto et al. (hereinafter "Seto") in view of Related Art (hereinafter "Related Art") as applied to claims 67 and 74 above, and further in view of U.S. Patent Number 5,787,419 issued to Sato (hereinafter "Sato").

As per claim 71, in addition to claim 67, Seto does not explicitly disclose a method which is applied for retrieval of hair style graphic images. However, Sato discloses a data searching apparatus, in which a desired part-pattern data of the hair is selected and displayed on the display, (see Sato col. 5, lines 11-23), and see Sato column 2, lines 1-25. It would have been

obvious to a person of ordinary skill in the art at the time of the invention was made to modify

the combined teachings of Seto, Related Art and Sato with retrieval of hair style graphic images.

Such modification would allow the teachings of Seto, Related Art and Sato to provide a data

searching apparatus which permits the user to instantly and easily search combined data that he

or she wants from among a plurality of combined data, (see Sato col. 1, lines 38-42).

As per claims 72-73 and 75-78, in addition to claim 71, Seto does not explicitly disclose

said first axis having measurement of dynamic in one axial direction and having a measurement

of smart in the order direction, and said second axis having a measurement of masculine in one

axial direction and a measurement of femininity in the other direction. However, Sato discloses

process of searching personal data, (see Sato col. 11, line 28 to col. 12, line 65). It would have

been obvious to a person of ordinary skill in the art at the time of the invention was made to

modify the combined teachings of Seto, Related Art and Sato with axis having measurement of

dynamic in one axial direction and having a measurement of smart in the order direction. Such

modification would allow the teachings of Seto, Related Art and Sato to provide a data searching

apparatus which permits the user to instantly and easily search combined data that he or she

wants from among a plurality of combined data, (see Sato col. 1, lines 38-42).

### *Prior Art*

6.      The prior art of record and not relied upon is considered pertinent to applicant's

disclosure.

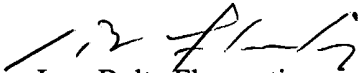US Patent No. 6,453,052 issued to Kurokawa et al.

## CONTACT INFORMATION

7.      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jean B Fleurantin whose telephone number is 703-308-6718.

The examiner can normally be reached on 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John B Breene can be reached on 703-305-9790.  The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system.  Status information for published applications

may be obtained from either Private PAIR or Public PAIR.  Status information for unpublished

applications is available through Private PAIR only.  For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jean Bolte Fleurantin

May 2, 2004

SHAHID ALAM
PRIMARY EXAMINER